

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

EDWARD JAMES WILLIAMS, SR.

§

VS.

§

CIVIL ACTION NO. 5:05cv13

ROBERT VINE, ET AL.

§

ORDER OF DISMISSAL

Plaintiff Edward James Williams, Sr., an inmate confined in the Texas prison system, filed this civil rights lawsuit pursuant to 42 U.S.C. § 1983. The complaint was referred to United States Magistrate Judge Caroline M. Craven, who issued a Report and Recommendation concluding that the complaint should be dismissed. The Plaintiff has filed objections. The Defendants have filed a response to the objections.

The Report of the Magistrate Judge, which contains her proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by the Plaintiff to the Report, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and the objections of the Plaintiff are without merit.

It is noted that the Plaintiff complained that he was falsely arrested for possession of a controlled substance. After reviewing the Plaintiff's documents, Magistrate Judge Craven found that the totality of facts and circumstances of this case are such that a reasonable officer in Officer Vine's position could have believed that the Plaintiff had committed the offense for which he was charged. There was probable cause for the arrest, thus the Defendants' motion to dismiss should be

granted. The Plaintiff's objections challenged the sufficiency of the evidence, but he failed to address the conclusion that there was probable cause for the arrest and failed to overcome the defense of qualified immunity. He has not shown that the case should not be dismissed for the reasons outlined in the Report and Recommendation. The Defendants' response also correctly noted that the Plaintiff now claims that his parole was revoked due to the false allegations resulting in the false arrest. In light of this statement, the Plaintiff is improperly making a collateral attack on a state proceeding in a civil rights lawsuit. His attack is barred by *Heck v. Humphrey*, 512 U.S. 477 (1994). The objections lack merit and the case should be dismissed. The findings and conclusions of the Magistrate Judge are adopted as the findings and conclusions of the Court. It is accordingly

ORDERED that the Defendants' motion to dismiss (docket entry numbers 18 and 33) is **GRANTED**. It is further

ORDERED that the complaint is **DISMISSED** with prejudice. Fed. R. Civ. P. 12(b)(6). It is finally

ORDERED that all motions not previously ruled on are **DENIED**.

SIGNED this 20th day of July, 2005.

A handwritten signature in black ink, appearing to read "David Folsom", is written over a horizontal line.

DAVID FOLSOM
UNITED STATES DISTRICT JUDGE